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September 16, 2022

Via ECF

The Honorable Robert W. Lehrburger
United States District Court for the
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Ware v. Brann, et al., Case No. 21 CV 2028 (PGG)(RWL)

Dear Magistrate Judge Lehrburger:

I am an Assistant Corporation Counsel in the Office of the Corporation Counsel of the City of New York, the Honorable Sylvia O. Hinds-Radix, attorney for the Defendants in the above-referenced action. In light of Plaintiff's recently completed deposition, I write to respectfully request a 31-day extension of the time to complete discovery.

As the Court is aware, the scheduling of Plaintiff's deposition has proven somewhat difficult in this matter, as Plaintiff was transferred to the custody of the State and then repeatedly moved before settling at his current facility. Then, when Plaintiff's deposition was finally begun on August 18, 2022, generator testing at Plaintiff's facility so frequently disrupted the deposition that it was stopped and continued to September 13, 2022, when it was completed.

With the benefit of his deposition, Plaintiff's came into better focus, particularly with respect to the harms he alleges he suffered as a result of his fear of exposure to COVID-19. Specifically, Plaintiff now asserts that he has developed high blood pressure as a result of the stress he endured while in custody. He testified that this diagnosis was made just before he was transferred to the custody of the State. As such, the Defendants must request an update of the medical records they have received from Correctional Health Services to date. Moreover, Plaintiff's medical records with the State will likewise need to be collected.

Additionally, during the course of Plaintiff's deposition, it became clear that Plaintiff is in possession of additional documents relevant to this action, again tied particularly to his medical conditions. After discussing this with Plaintiff, he agreed to provide copies of these documents to me.

In light of this additional material to be gathered, I respectfully request a 31-day extension of the time by which to complete discovery. This would move the current deadline from today, September 16, 2022, to October 17, 2022. After the deposition, Plaintiff and I discussed an extension of the time by which to complete discovery and, upon my request for his consent for a 30-day extension, he agreed to that extension. At that time, I did not realize that 30 days would result in the extended deadline falling on a Sunday. To avoid this, I therefore ask the Court now for the instant 31-day extension.

I thank the Court for its attention to this matter.

Respectfully yours,

/s/ David S. Thayer

David S. Thayer

cc: ***Via ECF***
Walter Ware
DIN#22B1979
Five Points Correctional Facility
P.O. Box 119
State Rt. 96
Romulus, NY 14541
Plaintiff pro se

SO ORDERED:



9/16/2022

HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

The Clerk of Court is respectfully requested to mail a copy of this order to Pro Se Plaintiff:

Walter Ware
DIN #22b1979
Five Points Correctional Facility
P.O. Box 119
State Rt. 96
Romulus, NY 14541